

REMARKS

Applicants thank the Examiner for indicating that claim 7 would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. Accordingly, claim 7 has been rewritten in an independent form.

Please note that this application is a division of U.S. Serial No. 10/270,237, filed October 15, 2002, which claims benefit from Provisional Application Serial No. 60/328,410, filed October 12, 2001, entitled the same as above, the entire disclosure of all prior applications from whom benefit is claimed are hereby incorporated herein by reference.

Claims 3, 6, 10, 20 and 23 were rejected as being anticipated by Tanaka. Claims 3-6, 8-10 and 20-23 were rejected as being obvious over Tanaka. These rejections are respectfully traversed.

The filing date of Tanaka is May 17, 2002, which is the 102(e) date of Tanaka.¹ This application claims benefit from Provisional Application Serial No. 60/328,410, filed October 12, 2001, which fully supports the claims of the pending application to the extent that Tanaka has been relied upon to reject the pending claims.² Thus, Tanaka is not prior art.

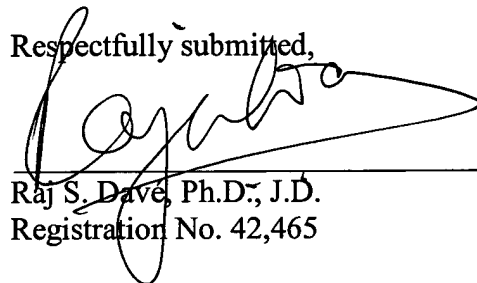
¹ Note that the effective date of a domestic patent or publication when used as a reference is not the foreign filing date to which the application for patent may claim priority. *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966). Therefore, the date to be antedate Tanaka is the effective U.S. filing date of Tanaka, not the foreign priority date.

² Please note that the provisional application need *only* contains facts showing a completion of the invention commensurate with the extent of the invention as claimed is shown in Tanaka and relied upon by the Examiner to reject the claims. See *In re Wakefield*, 422 F.2d 897, 164 USPQ 636 (CCPA 1970).

In the event that the transmittal letter is separated from this request and the Patent and Trademark Office determines that a fee is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing attorney docket no. 361752000910.

Dated: November 4, 2004

By:

Respectfully submitted,


Raj S. Dave, Ph.D., J.D.
Registration No. 42,465

Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888
Telephone: (202) 887-1500
Facsimile: (202) 887-0763